

### **REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional claim fee is required for this Amendment as the number of independent claims is not more than three, and the total number of claims is not more than originally filed. The Commissioner is authorized to charge Deposit Account 19-3550 for the RCE fee, a one-month extension fee, and any other fee, if necessary.

### **Amendment to the Claims**

Claim 35 has been amended to clarify the differences between measuring of the blood pressure value and determining hemodynamic stability. New Claim 36 has been added. Support for this Amendment can be found for example, at pages 6, 11, and 12. No new matter has been added to the claims by this Amendment.

### **Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 8, 9, 21, 22, 30, 34, and 35 under 35 U.S.C. §102(b) as anticipated by Ramsey, III et al., U.S. Patent 5,170,795, is respectfully traversed.

Ramsey, III et al. discloses a method for collecting a blood pressure measurement that removes singular pulse deviations as aberrations to provide accurate blood pressure values (Col. 2, line 66, through Col. 3, line 4). The final Office Action and Advisory Action rely heavily on the disclosure related to Fig. 1 to form this rejection. Fig. 1 of Ramsey III, et al., and the corresponding discussion at Col. 6, line 56, through Col. 7, line 5, provides for a data processor correcting the  $\Phi A(I)$  value for any aberrant measured amplitude. This passage also explains that an aberrant amplitude occurs when the oscillation amplitude of any time interval step (two heart beats: Col. 6, lines 38-39) is not in line with the previous and/or subsequent oscillation amplitude.

The cuff measurement correction of Ramsey, III et al. is done to simply obtain a oscillogram for use in determining a blood pressure value. Applicant's claimed invention also uses a pulse oscillogram to obtain a blood pressure value, but additionally analyzes the provided pulse oscillogram to determine hemodynamic stability and circulatory rest. Whereas Ramsey, III et al., as shown in Fig. 1, corrects individual blood pressure cuff measurements to obtain an oscillogram, Applicant's claimed invention includes an additional step of analyzing the obtained oscillogram as a whole to determine circulatory rest, particularly by "determining and analyzing

Serial No.: 10/572,997

with the evaluating device at least one of a pulse period progression, a pulse amplitude progression, or a pulse shape of only the individual pulse oscillogram.”

Ramsey, III et al. does not provide the Applicant’s step, in addition to measuring a blood pressure value, of determining circulatory rest by the evaluating device determining and evaluating a hemodynamic parameter or at least one other physiological parameter which correlates with the hemodynamic parameter, with respect to chronological changes, particularly where the testing for the hemodynamic stability of the patient is performed by determining and analyzing with the evaluating device at least one of a pulse period progression, a pulse amplitude progression, or a pulse shape of only the individual pulse oscillogram (PO) to determine circulatory rest.

The cuff measurement correction method of Ramsey, III et al. is unrelated to, and does not provide, Applicant’s claimed invention reciting steps of testing for, and determining whether a blood pressure value was obtained during, circulatory rest. For at least these reasons, Ramsey, III et al. does not anticipate Claims 8, 9, 21, 22, 30, 34, and 35. New Claim 36 is also patentable for at least these same reasons.

**Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 2-4 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Ramsey, III et al., U.S. Patent 4,349,034, is respectfully traversed. Ramsey, III et al. is discussed above. The '034 Patent does not overcome the deficiencies of Ramsey, III et al. discussed above.

The rejection of Claims 6, 7, 10, and 28 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Diab, U.S. Patent 6,463,311, is respectfully traversed. Ramsey, III et al. is discussed above. Diab does not overcome the deficiencies of Ramsey, III et al. discussed above.

The rejection of Claims 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Diab, and further in view of Goto et al., U.S. Patent Application Publication 2003/0092999, is respectfully traversed. Ramsey, III et al. is discussed above. Diab and Goto et al. do not overcome the deficiencies of Ramsey, III et al. discussed above.

The rejection of Claims 14-16, 32, and 33 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Doten et al., U.S. Patent

Serial No.: 10/572,997

Application Publication 2002/0058875, is respectfully traversed. Ramsey, III et al. is discussed above. Doten et al. does not overcome the deficiencies of Ramsey, III et al. discussed above.

The rejection of Claims 17 and 29 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Goto et al., is respectfully traversed. Ramsey, III et al. is discussed above. Goto et al. does not overcome the deficiencies of Ramsey, III et al. discussed above.

The rejection of Claims 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Ramsey, III et al., in view of Goto et al. and Doten et al., is respectfully traversed. Ramsey, III et al. is discussed above. Goto et al. and/or Doten et al. do not overcome the deficiencies of Ramsey, III et al. discussed above.

### **Conclusion**

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed or resolved in this response, the undersigned attorney requests a further telephone interview with the Examiner.

Serial No.: 10/572,997

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MDS', with a long horizontal line extending to the right.

Mark D. Swanson  
Regis. No. 48,498

Pauley Petersen & Erickson  
2800 West Higgins Road  
Suite 365  
Hoffman Estates, Illinois 60169  
(847) 490-1400  
FAX (847) 490-1403